

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri.Mohamed Arifulla C.F. B.Sc., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 3rd day of August 2026

O.S.No.3393/2022 (Old No.1247/2012)

Plaintiff/s : Sri.Lakshmeesha & Anr.

- V/s -

Defendant/s : Sri.Hanumantharayappa & Ors.

Applicant/s : Sri.Lakshmeesha & Anr.
(Plaintiffs)

Provision under which the application is filed	1) I.A U/o 18 Rule 17 R/w Section 151 of CPC 2) I.A. U/Section 151 of CPC
Relief sought for	Seeking permission to recall the order dated 28-11-2024 and permit the plaintiff to lead evidence.
The date on which the applications are filed	30-1-2025
Number of the applications	I.A.No.1 and 2/2025
The date on which the objection is filed by the different opponents	4-3-2025
The date on which the order is passed on the said application	03-08-2026

Orders on I.A.No.1 and 2/2025

The defendant No.7 has filed the above applications seeking permission to recall the order dated 6-11-2023 and 2-3-2006 and permit to cross examine the D.W-1 and 2.

2. In the annexed affidavits the plaintiff No.1 has has stated that they have filed the above suit for partition and separate possession with respect to suit schedule properties. Their counsel was out of station and hence they have not contacted their counsel and not able to give instructions to file affidavit evidence. It is not intentional except for the above said bonafide reason. Hence, prays to allow the applications.

3. The defendant No.8 filed objections to the above application and further contended that the plaintiffs in order to drag and harass this defendant has filed the above applications which are not maintainable and the plaintiffs have not given sufficient reason for their non-appearance in the above case. The plaintiffs have filed another suit in O.S.No.2044/2021 by colluding with other defendants and behind the back of this defendant they have obtained the compromise decree. After disposal of the said case the plaintiffs did not shown any

interest to appear in the present case. Hence, prays to reject the applications.

4. Based upon the above contentions, the following points arise for consideration of this court:

1. Whether the plaintiffs have made out sufficient grounds to allow the applications?

2. What order?

5. Heard arguments. On due perusal of the records, the court findings on the above points are as under:

Point No.1 : In the Affirmative,
Point No.2 : As per final order
for the following;

REASONS

6. **Point No.1:-** The plaintiffs have filed these applications to recall and reopen the case to lead evidence by stating that the plaintiffs could not give instructions to their counsel to file evidence affidavit.

7. However, the defendant No.8 has contended that the present applications are not maintainable under law and facts and the plaintiffs have filed these applications to drag and to

harass this defendant and even after sufficient opportunities given by this court they have not lead their evidence.

8. Though the defendant No.8 has strongly objected the applications but the plaintiff has clearly stated that due to some difficulty he could not give instructions to his counsel to prepare evidence affidavit and this fact clearly discloses that the plaintiffs have get bonafide reasons and therefore one more opportunity is to be granted to the plaintiffs to lead evidence and accordingly I have answered point No.1 in “**Affirmative**”.

9. **Point No.2** :- In view of the aforesaid findings on point No.1, I proceed to pass the following:

ORDER

I.A.No.1/2025 filed by the plaintiff U/o
18 Rule 17 R/w Section 151 of CPC and
I.A.No.2/2025 U/Section 151 of CPC are
hereby allowed on payment of cost of
Rs.1000/-.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced by me in the open court on this the 3rd day of August 2026.)

(Mohamed Arifulla C.F.)
Senior Civil Judge & JMFC,
Hosakote.

